

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2087 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BHARAT MANGALAL CHOKSI

Versus

NATIONAL TEXTILES CORPORATION

Appearance:

MR NILESH M SHAH for Petitioner
NOTICE SERVED for Respondent No. 1
MR BR GUPTA for Respondent No. 2

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 15/09/2000

ORAL JUDGEMENT

1. This petition is preferred by the petitionerworkman invoking jurisdiction of this Court under Article 226 of the Constitution of India praying for issuance of a writ or writs in the nature of mandamus

or any other appropriate writ or writs or orders and to quash and set aside orders dated 28.4.1988 and 19.2.1992 at Annex.B & F to the petition.

2. That the petitioner was serving with respondent no.1 and was working in Viramgam Textile Mills, a Unit of respondent no.1, and his presence was marked in the presence register. It is the case of the petitioner that from June 1986, respondents declared lay-off in the Printing Department and from October,1990, the department had been closed in breach of statutory provisions. However, on alleged absence from May,1986, name of the petitioner was struck off from the register on 28.4.1998. Against said order, the petitioner filed appropriate proceedings. The petitioner thereafter served a notice to General Manager, Viramgam Textiles Mills to issue proper "pass" as a regular worker and agitated against the lay-off. Factory Manager, in response to the said notice, has stated that the petitioner is not entitled to such "pass" as his name was struck off prior to closure of the concerned department of the mill after obtaining proper permission from the Court and considering the say of the workers' union. The said letter is dated 18.2.1992 at Annex.F which is under challenge.

3. After perusal of the averments made in the petition and grounds agitated by the petitioner in para-7 of the petition, a query was raised to the learned counsel Miss D.T.Shah appearing for the petitioner and she has fairly conceded that an alternative remedy is available to the petitioner and he may be directed to approach the Court of competent jurisdiction. She has also pointed out that in similar type of petition pending before this Court being Spl.C.A. No. 1655/92, this Court (Coram: D.H.Dharmadhikari, C.J.) vide judgment and order dated 22.8.2000, disposed of the said petition. Copy of the said judgment is not available with Miss D.T.Shah, but it is submitted that said petition is disposed of on the ground of alternative remedy available to the petitioner at the time of filing the petition and with a direction to the petitioner of the said petition to approach the competent court. She, therefore, submitted that this petition can also be disposed of on the same line. She, however, expressed apprehension that if now the petitioner is directed to avail of alternative remedy, respondents will raise technical plea of limitation and, therefore, suitable observations be made in that regard.

4. In view of the fair submission made by learned counsel Miss D.T.Shah for the petitioner, without

entering into the merits of the matter, this petition is dismissed on the ground of alternative efficacious remedy available to the petitioner. Petitioner, if he so desires, is directed to approach the the competent court having jurisdiction to redress his grievance voiced in this petition. It is pertinent to note that this petition was admitted by this Court before several years vide order dated 30.3.1992 and it is unfortunate that the same could not be heard and disposed of till this date. Now, by this judgment, the petition is dismissed on the ground of availability of alternative efficacious remedy. Under the circumstances, it is expected and hoped that if the petitioner approaches the competent court having jurisdiction with the grievances voiced in this petition, the authority concerned will entertain the same on merits and in accordance with law, without raising technical plea of limitation. Rule is discharged subject to aforesaid observations. Interim relief, if any, stands vacated. No costs.

15.9.2000 [C.K. BUCH, J]

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